

HOUSE BILL No. 1235

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-1-16.5; IC 35-50-2-2.2.

Synopsis: Drug offenses. Provides that a prior conviction of dealing in synthetic drugs is considered an enhancing circumstance for purposes of the dealing in controlled substances statutes. Makes certain Level 2 dealing in controlled substances offenses nonsuspendible.

Effective: July 1, 2016.

**Steuerwald, Koch, McNamara,
Goodin**

January 11, 2016, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1235

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-48-1-16.5, AS AMENDED BY P.L.168-2014,
2 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 16.5. "Enhancing circumstance" means one (1) or
4 more of the following:

5 (1) The person has a prior conviction, in any jurisdiction, for
6 dealing in a controlled substance that is not marijuana, hashish,
7 hash oil, ~~or~~ salvia divinorum, ~~or a synthetic drug,~~ including an
8 attempt or conspiracy to commit the offense.

9 (2) The person committed the offense while in possession of a
10 firearm.

11 (3) The person committed the offense:

12 (A) on a school bus; or

13 (B) in, on, or within five hundred (500) feet of:

14 (i) school property while a person under eighteen (18) years
15 of age was reasonably expected to be present; or

16 (ii) a public park while a person under eighteen (18) years
17 of age was reasonably expected to be present.



(4) The person delivered or financed the delivery of the drug to a person under eighteen (18) years of age at least three (3) years junior to the person.

(5) The person manufactured or financed the manufacture of the drug.

(6) The person committed the offense in the physical presence of a child less than eighteen (18) years of age, knowing that the child was present and might be able to see or hear the offense.

SECTION 2. IC 35-50-2-2.2, AS AMENDED BY P.L.168-2014, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2.2. (a) Except as provided in subsection (b), ~~or~~ (c), **or (d)**, the court may suspend any part of a sentence for a felony.

(b) If a person is convicted of a Level 2 felony or a Level 3 felony, except a Level 2 felony or a Level 3 felony concerning a controlled substance under IC 35-48-4, and has any prior unrelated felony conviction, the court may suspend only that part of a sentence that is in excess of the minimum sentence for the:

(1) Level 2 felony; or

(2) Level 3 felony.

(c) If a person is convicted of a Level 2 felony under IC 35-48-4-1 or IC 35-48-4-1.1, the court may suspend only that part of a sentence that is in excess of the minimum sentence for the Level 2 felony.

~~(c)~~ **(d)** The court may suspend only that part of a sentence for murder or a Level 1 felony conviction that is in excess of the minimum sentence for murder or the Level 1 felony conviction.

